

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

OP.No. 29584 of 2000(V)

PETITIONER:

**THE MANAGER, PATHANS BUILDINGS,
ROUND SOUTH, THRISSUR.**

**BY ADV. SRI.S.V.BALAKRISHNA IYER
SRI.P.B.KRISHNAN**

RESPONDENTS:

- 1) THE STATE OF KERALA, REP: BY THE SECRETARY,
MINISTRY OF REVENUE, SECRETARIAT,
THIRUVANANTHAPURAM.**
- 2) THE DISTRICT COLLECTOR, THRISSUR.**
- 3) THE REVENUE DIVISIONAL OFFICER, THRISSUR.**
- 4) THE TAHSILDAR, THRISSUR.**

BY GOVT. PLEADER SRI.TEK CHAND V.

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ORDER ON CMP.NOS.50095/2000 & 18796/2001 IN OP.NO.29584/2000-V.

DISMISSED.

7.9.2007.

Sd/- T.R.Ramachandran Nair, Judge.

PETITIONER'S EXHIBITS:-

- Ext.P1:** Copy of the order of assessment Ref.No.H5-22846/96 passed by respondent No.4.
- Ext.P2:** Copy of the order No.C1.K.Dis.8353/98/C1 passed by respondent No.3 dtd.17.12.1999.
- Ext.P3:** Copy of the proceedings of the District Collector, Thrissur bearing No.B4-32097/2000 dtd.4/8/2000.
- Ext.P4:** Copy of the Revision Petition filed by the petitioner before respondent No.1 dtd.29.8.2000.
- Ext.P5:** Copy of the Stay petition filed by the petitioner in his revision petition filed before respondent No.1 dtd.29.8.2000.
- Ext.P6:** Copy of the proceedings of respondent No.4 bearing G2-22846/96 issued to the petitioner dtd.29.8.2000.
- Ext.P7:** Copy of the judgment in OP.No.27350/2000 on the file of this Hon'ble Court dtd.25.9.2000.
- Ext.P8:** Copy of the registered letter sent by the petitioner to respondent No.4 dtd.26.9.2000.
- Ext.P9:** Copy of the order and proceedings No.G2-22846/96 issued by respondent No.4.
- Ext.P10:** Copy of the letter sent by the petitioner to respondent No.4, dated 3.10.2000.

RESPONDENTS' EXHIBITS:-

NIL.

(true copy)

P.A. TO JUDGE.

Kvs/-

T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 29584 of 2000-V.

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Dated this the 7th day of September, 2007.

J U D G M E N T

The petitioner was assessed to building tax as per Ext.P1 order dated 8.9.1998. He filed an appeal before the 3rd respondent. The appeal was allowed in part whereby the plinth area of the building was fixed as 3925.40 Sq. meter and the amount payable as tax was finalised at Rs.4,95,000/-. Ext.P2 is the order passed by the appellate authority which was complied with by the petitioner by remitting the balance amount.

2. It appears that by Ext.P3 the District Collector suo motu quashed Ext.P2 and directed the assessing authority to reassess the building afresh on the basis that the plinth area of the building is 5008.82 Sq. meter. The same was done without any notice to the petitioner and therefore the petitioner filed Ext.P4 before the Government of Kerala under Section 14 of the Act. By Ext.P7 judgment this Court had directed the revision petition to be disposed of. It was further directed that till such time the proceedings against the petitioner will stand stayed.

3. Even before the disposal of Ext.P4 the Tahsildar passed a revised

order as per Ext.P9. That actually amounts to disobedience of the judgment of this Court. The petitioner has clearly averred in the Original Petition that a certified copy of the judgment was submitted to the 4th respondent on 30.9.2000, but by 2.00 pm. on the same day he was issued a copy of Ext.P9 order. There is a further contention that the date of the proceedings have been corrected as 23.9.2000 instead of 27.9.2000 which can be easily detected. Again the petitioner submitted Ext.P10 before the Tahsildar disputing the manner in which he had chosen to pass the impugned order Ext.P9.

4. The learned counsel for the petitioner points out that binding directions of this Court contained in Ext.P7 ought not have been ignored by the Tahsildar especially since the proceedings against the petitioner stood stayed pending disposal of Exts.P4 and P5. The Tahsildar was also a party to Ext.P7 judgment. In the light of the averment of the petitioner, which is not disputed by filing counter-affidavit, it is clear that the certified copy of the judgment was produced before the Tahsildar. Since the competent authorities who were respondents in Ext.P7 judgment are bound to comply with the said judgment the action taken by the 4th respondent to implement the revised order, that too adverse to the claims of the petitioner is clearly unsupportable. Therefore Ext.P9 is quashed. The first respondent, is directed to hear and dispose of Exts.P4 and P5 as already directed in Ext.P7

judgment and in compliance thereof, within a period of four months from the date of receipt of a copy of this judgment, after affording an opportunity of hearing to the petitioner. No recovery shall be made in the meanwhile.

The writ petition is allowed as above. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-